INDIA AS AN EFFECTIVE CENTRE OF INTERNATIONAL COMMERCIAL ARBITRATION- AN ANALYSIS WITH SPECIAL REFERENCE TO SINGAPORE AND HONGKONG

SYNOPSIS

(THESIS PROPOSAL)

SUBMITTED TO

The ICFAI University, Dehradun

IN PARTIAL FULFILLMENT OF THE REQUIREMENT

FOR THE AWARD OF THE DEGREE OF

DOCTOR OF PHILOSOPHY (Ph.D.)

IN

Law

BY

Parth Upadhyay

(Enrollment No: RSILS220009)

Under the Supervision of

Dr. Rajiv Kumar Bhartiya

Assistant Professor

The ICFAI University, Dehradun

and

Dr. Monica Kharola

Associate Professor

The ICFAI University, Dehradun

ICFAI Law School

The ICFAI University, Dehradun

The ICFAI University, Dehradun

Candidate's Declaration

I, **Parth Upadhyay**, declare that the synopsis entitled, **"India as an Effective Centre of International Commercial Arbitration- An analysis with special reference to Singapore and Hongkong"** being submitted in the partial fulfilment of the requirement for the award of the degree of Doctor of Philosophy in Law under ICFAI Law School, The ICFAI University, Dehradun during the academic year 2024-25.

It is the work that is expected to carry out under the supervision of Dr. Rajiv Kumar Bhartiya and Dr. Monica Kharola. It is further declared that the synopsis is within the plagiarism limit and copy of the same is attached as per the University norms.

Date: 15/01/25

Place: Dehradun

Parth Upadhyay

Signature

Candidate's Name: Parth Upadhyay

The ICFAI University, Dehradun

CERTIFICATE

This is to certify that the thesis entitled, **"India as an Effective Centre of International Commercial Arbitration- An analysis with special reference to Singapore and Hongkong"** is an original piece of work done by **Parth Upadhyay** under my supervision being submitted in the partial fulfillment of the requirement for the award of the degree of Doctor of Philosophy in Law under ICFAI Law School, The ICFAI University, Dehradun during the academic year 2024-25.

Further, it is It is certified that the synopsis is within the plagiarism limit and copy of the same is attached as per the University norms.

Date: 15/01/25

Place: Dehradun

Dr. Rajiv Kumar Bhartiya
Assistant Professor
The ICFAI University, Dehradun

Dr. Monica Kharola
Associate Professor
The ICFAI University, Dehradun

TABLE OF CONTENTS

List of Tables			
List of Figures			
Abstract			V
1	Introduction		1-4
2	Research Problem		4-5
3.	Literature Review		5-32
4.	Research Gap		32
5.	Research Objectives		33
6.	Research Hypothesis		33
7.	Research Methodology		33-34
	7.1.	Research Design	..
	7.2	Survey Location	..
	7.3	Sample, Sampling Size and Sampling Technique etc	..
	7.4	Tools Used	
8.	Expected Outcome of the Research Work		35-36
9.	Proposed Chaptalization		36-37
10.	Month wise Plan of the Work		38
	Bibliography		38-40
	Plagiarism Report		41

ABSTRACT

A forum for the amicable resolution of business disputes between private parties with a commercial interest is International Commercial Arbitration (I.C.A.). Over the past ten years, it has been noted that arbitral institutions have gone above and beyond to assist the growth and development of I.C.A. on a global scale. Along with the increase in international trade and investment there has also been an influx in commercial disputes across world involving foreign parties. Arbitration has emerged as one of the most preferred options at International level for efficient resolution of commercial disputes.

In India, liberal economic policies are crucial in promoting cross-border business dealings, which has led to a surge in cross-border transactions involving Indian parties and a flow of foreign capital. Consequently, international commercial disputes involving India as aparty are also increasing rapidly. The international community has taken notice of India's international arbitration regime as a result of this.

If journey of India to emerge as an effective centre of ICA is assessed, it is found that India is yet to cover a long distance to succeed its competing countries like Singapore and Hongkong. As far as the reasons and factors are concerned, there are many in numbers. One of the most significant factors is that India's Arbitral Institutions yet to be grown and emerged more effectively like SIAC and HIAC. The potential and scope of International Commercial Arbitration in India will lead this country as a global leader in the area of International Commercial Arbitration.

Keywords: International Commercial Arbitration, India as an effective centre, Cross Border Disputes, Investment, Trade, Institutional Arbitration

"India as an Effective Centre of International Commercial Arbitration- An analysis with special reference to Singapore and Hongkong"

1.Introduction-

International Commercial Arbitration (I.C.A) has emerged as a platform where private parties having commercial interest may get their commercial disputes adjudicated amicably. It has been observed over the last ten years that Arbitral Institutions have gone above and beyond to support the development and expansion of I.C.A at world level. All jurisdictions, through required amendments, upgrade their curial laws in alignment with the existing global arbitration scenario. In the south east region of the world, India's competing countries like Singapore and Hong Kong keep developing in the are of International Arbitration through timely amendments in their laws and strengthening the polices of Arbitral Institutions by incorporating the recent trends. In existing scenario, the world is looking toward India to ensure its name among the leading counterparts specifically in the south eastern and south western part of the globe.

Along with the increase in international trade and investment there has also been an influx in commercial disputes across world involving foreign parties. Arbitration has emerged as one of the most preferred options at International level for efficient resolution of commercial disputes.

In context of our country the Liberal economic policies are playing a vital role to boost the cross border economic transactions, that has opened the flood gate of foreign investments and an increase in cross-border transactions involving Indian parties. Consequently, commercial disputes involving Indians as a party are also growing rapidly. This has drawn attention of the world community on India's International Arbitration Regime.

Indian legislature has brought three amendments in the Arbitration and Conciliation Act, 1996 in 2015, 2019 and 2021 to make Indian arbitration law as per global standard. Through the amendment of 2015 the provisions for time bound arbitration [1] and fast track arbitration[2] were incorporated but provisions for strengthening and regulating the Institutional Arbitration were inserted in 2019 with an object to transpire India a robust centre for International Commercial Arbitration.

After studying various reports, it has been inferred that Institutional Arbitration has played a pivotal role to make Singapore and Hongkong a hub for International Arbitration. The annual

---

[1] Arbitration and Conciliation Act, 1996, s. 29A (India) (hereinafter, ACA).

[2] *Id.* s. 29B.

reports of leading Arbitral Institutions of Singapore and Hongkong reveals that in 2023 out of total cases filed in SIAC and HKIAC 93% and 86% cases respectively were International involving foreign Parties.

On the basis of process of conducting Arbitration, it is categorised into two kinds. One is Institutional Arbitration and other is Ad hoc Arbitration. In case of Institutional Arbitration, one arbitral institute gets involved to manage and govern the whole process of Arbitration starting from Appointment of Arbitrator to grants of Award. But where parties prefer to appoint individuals as an arbitrator without involving any institute, that is known as Ad Hoc Arbitration. It is pertinent to say that Institutional Arbitration is more effective and beneficial than the Ad Hoc Arbitration in many senses.

If journey of India to emerge as an effective centre of ICA is assessed, it is found that India is yet to cover a long distance to succeed its competing countries like Singapore and Hongkong. As far as the reasons and factors are concerned, there are many in numbers. One of the most significant factors is that India's Arbitral Institutions yet to be grown and emerged more effectively like SIAC and HIAC.

Although it is notable that India is emerging as a global player at world level in term of cross border trade and business where commercial disputes most likely take place between parties. But after going through the annual reports of various Arbitral Institutions of India and Its counterpart in foreign countries, it has been observed that Indian parties are still approaching foreign seated arbitral institution to get their commercial disputes settled through Arbitration. According to the Singapore's prominent International Arbitration Centre, SIAC's annual report of 2016 says that 45% of the total 343 cases it received involved Indian parties – either as a petitioner or as a respondent. Moreover, in the annual report of 2023 India has been shown on top in the list of foreign user ranking. [3] The report reveals that 93% of the new cases were international in nature (compared to 88% in 2022). China, India and USA remained amongst the top foreign users. SIAC recorded its second highest ever caseload with 663 new cases filed, of which 640 SIAC-administered in 2023.[4] The most preferred and applied governing laws were Singapore (64.6%) followed by the UK (20.7%) and India (4.5%).

[3] https://siac.org.sg/wp-content/uploads/2023/04/SIAC_AR2022_Final For Upload.pdf
[4] Ibid

In addition to that ICC (International Chamber of Commers) Dispute Resolution Statistics published in 2023[5], has provided a very comprehensive data worldwide. The report states that 52 parties from India filed their cases in ICA and India accounted for 2nd rank in Asia in term of maximum number of parties who filed their arbitration cases in ICC. On the other hand reports revels that India is nowhere in the List of Top 10 countries where Place of arbitration was most frequently selected either by the parties of the Arbitration or by the Court.[6] As per ICC report, In 2023, the top five countries selected as place of arbitration remained France (with 99 cases, representing 15% of the overall places), the United Kingdom (85), Switzerland (79), the United States (66), and Brazil (34), followed by Germany (33), Singapore (30), the United Arab Emirates (24), Mexico (19), and Spain (18). The top five cities most frequently selected worldwide15 were Paris (96 cases), London (85), Geneva (49), New York (39) and Singapore (30).

Similarly, the International Centre for Dispute Resolution (ICDR), the International Division of American Arbitration Association in its annual report of 2023 reveals that total 848 International Cases were filed in a year.[7] Interestingly, India remains in top 5 in the list of Party Nationality. It means fifth highest number of parties from India filed their cases in ICDR to be settled through International Arbitration or other methods of ADR.

After studying the annual reports of various International Arbitral Institutions from different countries specially including Singapore and HongKong, it is inferred very specifically that such arbitral Institutions are loaded with International Cases involving parties from various nationalities including India. Nevertheless, when the reports of India's arbitral institutions are studied, it is not found on the same pace as any other institution in the world. The annual report of Mumbai Centre for International Arbitration published in 2023 says that MCA received only 23 new matters in 2023, of which 87% parties were domestic and only 13% parties were International. [8] The total filing of new cases in 2023 was lesser than 2022. In previous year total 24 new cases were filed in MCA.

There are numerous factors due to which Indian Arbitral Institutions couldn't compete Arbitral Institutions of foreign Country. Moreover, as Justice BN Srikrishna noted in his invaluable

---

[5] www.efaidnbmnnnibpcajpcglclefindmkaj/https://iccwbo.org/wp-content/uploads/sites/3/2024/06/2023-Statistics_ICC_Dispute-Resolution_991.pdf

[6] ibid, page 27

[7] 2023 ICDR Case data infographic, https://www.adr.org/sites/default/files/document_repository/AAA458_2023_ICDR_Case_Data.pdf

[8] MCA Annual Report, 2023 https://mcia.org.in/wp-content/uploads/2016/05/MCIA-Annual-Report-2023.pdf

2017 report, the quality of these institutions varies in terms of the: (i) efficiency and speed of the arbitral process; (ii) on-site infrastructure; (iii) available arbitrators; and (iv) quality of the awards made.[9]

Moreover, there cannot be any omission of the contribution of India in the global market. looking at India's size and profile, India will necessarily play an important role in resolving and preventing the recurring global crisis by influencing overreaching macroeconomic concerns such as trade, capital flow, economic policies and functioning of international financial organizations.[10]

India, has become the fifth-largest GDP at global level. Moreover, India's target is to achieve a $5 trillion economy by 2026–27, potentially becoming the world number three largest economy, as per the paper's perspective on economic growth challenges and projections. [11] It is clearly evident that Bharat is moving towards a new phase of market growth and the legislature has taken steps to create the path for private investment and establishing best Arbitral Institutions would be an integrated step in meeting that end.

In the wake of above stated commercial growth of India, the mechanism to settle down the disputes arising out of business transaction must be amicable, expeditious and as per global standard. I.C.A. has been proved as one of the very effective way to fulfil the aspirations of the parties. But in the last three decades India's neighbouring countries in Southern East part of Asia has taken the mileage. Consequently, by providing well developed mechanism for Institutional Commercial Arbitration the countries like Singapore, Malaysia and Hongkong have attracted large number of matters of ICA including foreign parties having seat of arbitration there. Now its time for India to emerge as a robust centre for International Commercial Arbitration at global level.

International Arbitration survey of 2021 conducted by Queen Mary University revels in its report that International arbitration is the respondents' most liked method of resolving cross-

---

[9] Justice BN Srikrishna, Report of the High Level Committee to Review the Institutionalisation of Arbitration Mechanism in India (30 July 2017), p. 49, para. 3.

[10] "India's journey towards becoming an international commercial hub that could rival Singapore and London was hampered by a largely ineffective Act and an arbitration regime." *See* Prakash Pillai & Mark Shan, *Persisting Problems: Amendments to the Indian Arbitration and Conciliation Act*, Kluwer Arbitration Blog, 10 March 2016 (Sep. 20, 2022), available at https://arbitrationblog.kluwerarbitration.com/2016/03/10/persisting-problems-amendments-to-the-indian-arbitration-and-conciliation-act/.

[11] Can India be a $5 Trillion economy by 2026–27: A perspective, paper written by Brij Behari Dave 01 Jan 2022 -published in The Clarion- International Multidisciplinary Journal - Vol. 11, Iss: 1, pp 1-13

border disputes for 90% of respondents.[12] That means at global level development of more and more efficient arbitral institution may lead that country to become a rival amongst its competitors.

In this research, the effectiveness of India as a centre of International Commercial Arbitration is to be analysed with special reference to Singapore and Hongkong.

2.Research Problem:

The research work will deal with the following issues related to International Commercial Arbitration in India.

- RP1- Arbitral Institutions in India are yet to grow more effectively and efficiently like its counterparts in Singapore and Hongkong.
- RP 2- Autonomy of the Parties is one of the challenges for the attractiveness of India as a seat of International Arbitration.
- RP 3- Arbitration Council of India as a regulator having control over the arbitral process would lead to Parties removing India from its list as a potential seat for their ICA.
- RP 4- Enforcement of foreign Awards in India get stuck in multi forum appeal system.
- RP 5 – The existing legal framework of India is to be effective in providing strong legal mechanism to resolve International Commercial Dispute through Arbitration.

3. Literature Review

The judicial interpretation of several of its arbitration laws and the overabundance of court intervention in the arbitral process have long hampered India's attempts to promote arbitration as a means of resolving disputes and to establish itself as a successful ICA centre. Lots of study have taken place in and outside India in the area of International Commercial Arbitration. Herein this thesis proposal I have done extensive systematic literature review of more than 200 literatures including Research Papers, Book Chapters, Articles etc. availed from various sources like Research Gate, Google Scholar, Shodh Ganga, Shodh Sindhu, etc. Below given is the method of systematic literature review and table of literature containing title, name of author, research methodology and research gap.

[12] 2021 International Arbitration Survey: Adapting arbitration to a changing world, https://www.qmul.ac.uk/arbitration/media/arbitration/docs/LON0320037-QMUL-International-Arbitration-Survey-2021_19_WEB.pdf

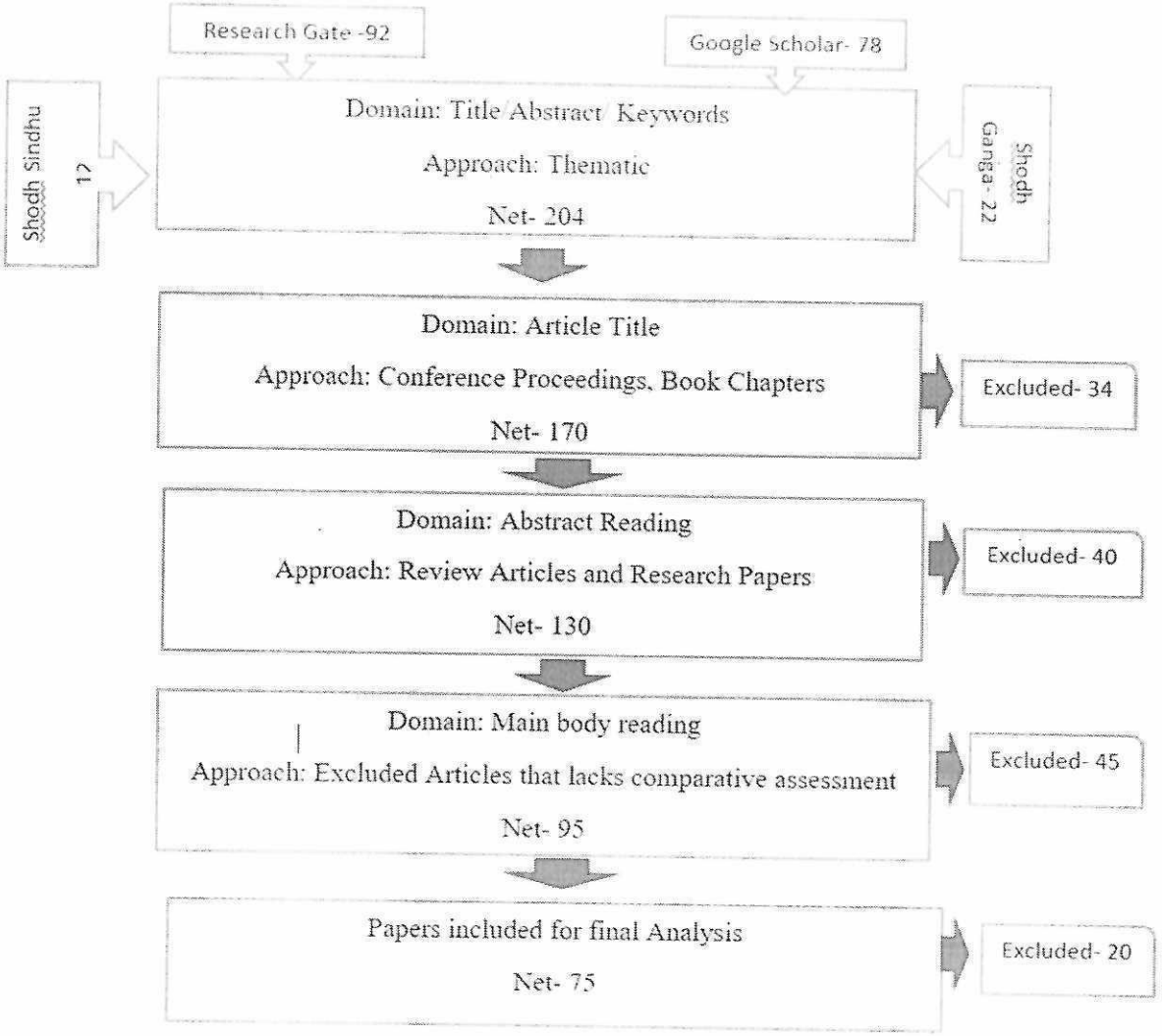


Table of Literature Review

S.NO.	AUTHORS/ YEAR	TITLE	JOURNAL NAME/ PUBLISHER	METHODOLOGY USED	CONCLUSION/ RESEARCH GAP
1.	Bobette Wolski 2001	RECENT DEVELOPMENTS IN INTERNATIONAL COMMERCIAL DISPUTE	the Bond Law Review, the Journal of the Bond University in Australia	Doctrinal /Used primary and secondary data ,law reports and Websites	In this paper, author studied the recent development in International Commercial Arbitration

		RESOLUTION: EXPANDING THE OPTIONS	Volumer 13, Issue 2		including latest initiatives of the ICC (namely the ICC ADR Rules) and UNCITRAL (namely the Draft UNCITRAL Model Law on International Commercial Conciliation) to facilitate the use of ADR options such as mediation and conciliation.
2.	Sakshi Gupta/ Kushagre Baweja 2021	ARBITRATION IN INDIA: AN EMERGING JUDICIAL REVOLUTION IN INDIA	Anusandhan - The Research Repository of GIBS Volume 4; Number 1, December 2021 Weblink- https://gitarattan.edu.in/wp-content/uploads/2022/07/22.pdf	Doctrinal /Used primary and secondary data	This paper is based on the idea that how Arbitration as a dispute redressal mechanism is creating its space in judicial working and is emerging as a reliable source of settlement of disputes avoiding the long way hustle in the courtrooms.

3.	Dr. Aaliyah Siddiqui 2021	INTERNATIONAL ARBITRATION: A META-ANALYSIS OF FIVE DECADE RESEARCH	European Journal of Molecular & Clinical Medicine, ISSN 2515-8260 Volume 08, Issue 03, 2021	Doctrinal /Used primary and secondary data	International arbitration, when used as a keyword for discovering the documents for the study found 10 categories. There were a total of 799 documents, out of which 523 were articles which makes 65.45 percent. Thus, Articles were the most common type of published document. This is followed by 102 Book chapters making the second most recurrent type of document and contributing 12.76 percentage of the total number of documents.

4.	Sir Lynden Macassey 1938	INTERNATIONAL COMMERCIAL ARBITRATION ITS ORIGIN, DEVELOPMENT AND IMPORTANCE	Transactions of the Grotius Society Vol. 24, Problems of Peace and War, Papers Read before the Society in the Year 1938 (1938), pp. 179-202 (24 pages) Published By: Cambridge University Press	Doctrinal /Used primary and secondary data ,law reports, Websites	This article put some suggestion to make the international commercial arbitration efficient at international level, but it was written in 1938 hence it missed lot of new aspects of the international commercial arbitration.
5.	M.S. Rawat 2007	INTERNATIONAL COMMERCIAL ARBITRATION AND TRANSNATIONAL PUBLIC POLICY	Journal of the Indian Law Institute Vol. 49, No. 1 (JANUARY-MARCH 2007). pp. 60-75 (16 pages) Published By: Indian Law Institute	The Research method is based on analysis and description. Reliance has been placed largely on secondary sources like books and articles.	This article discussed the hurdles on the name of public policy to implement the arbitral award. This article also discussed the position of International Commercial Arbitration in different countries. But as far as Indian

					scenario is concerned it remains silent.
6.	Viraj Fulena Hemant Chittoo (2023)	INTERNATIONAL COMMERCIAL LITIGATION AND ARBITRATION RESEARCH ESSAY	International Journal of Social Science And Human Research ISSN(print): 2644-0679, ISSN(online): 2644-0695 Volume 06 Issue 02 February 2023 DOI: 10.47191/ijsshr/v6-i2-70, Impact factor-5.871 Page No: 1311-1316	Doctrinal /Used primary and secondary data ,law reports, Websites.	Arbitration is a voluntary alternative dispute resolution method that has become popular due to its advantages over litigation, such as flexibility, confidentiality, impartiality, neutrality, and party autonomy. It involves the appointment of an arbitrator who acts as a private judge to adjudicate disputes between the parties

7.	Anubhab Banerjee (2020)	THE INTERPRETATION OF THE RULE OF COMPETENCE – COMPETENCE IN INTERNATIONAL COMMERCIAL ARBITRATION FROM AN INDIAN PERSPECTIVE	Social Science Research Network	Doctrinal/ Law report, Article, Books .	The paper examines the rule of competence-competence in international commercial arbitration, focusing on its interpretation and application in India. It compares India's approach to that of England and France, analyzing the variations in interpretation across these jurisdictions. The research considers the precedents set by Indian courts in interpreting the rule and evaluates whether India's interpretation is conducive to facilitating the arbitration

					process. The aim is to determine if India's interpretation is pro-arbitration or if any lacuna is to be addressed.
8.	Yuxin Zhang Hanho Ng College, Southwest University, Chongqing China 2022	THE GROWING IMPOTANCE OF INTERNATIONAL ARBITRATION IN INTERNATIONAL COMMERCE	BCP Business & Management GAGBM 2022 Volume 27 (2022) Weblink-https://www.researchgate.net/publication/363373493_The_Growing_Impotance_of_International_Arbitration_in_International_Commerce	Doctrinal research which was based on primary and secondary sources like cases ,article,books	International arbitration has become the preferred method of resolving disputes for foreign investors due to its independence and ability to transcend national borders, offering benefits such as cost and speed advantages, as well as providing finality in decision-making.

9.	Varun Mansinghka 2020	THIRD-PARTY FUNDING IN INTERNATIONAL COMMERCIAL ARBITRATION AND ITS IMPACT ON INDEPENDENCE OF ARBITRATORS: AN INDIAN PERSPECTIVE	Asian International Arbitration Journal (Kluwer Law International) - Vol. 13, Iss: 1, pp 97-112	Doctrinal/ Primary data and secondary Data are used	In this article, the authors highlight the need for mandatory disclosure of third-party funding and propose a disclosure model which preserves independence of arbitrators while safeguarding the interest of all the stakeholders, including the funders.
10	Sai Ramani Garimella 2017	Climate Change and Challenges to Self-Determination: Case Studies from French Polynesia and the Republic of Kiribati	Book- "Enforcement of Foreign Arbitral Awards and the Public Policy Exception" Book Chapter- Issues of Jurisdiction, Choice of Law and Enforcement in	Doctrinal/ secondary data are used.	This paper focuses on the Indian law on international commercial arbitration, discussing the issues related to jurisdiction, choice of law, enforcement of foreign arbitral awards, and the role of courts in

			International Commercial Arbitration: An Indian Perspective		deciding challenges to such enforcement. The author has not discusses the latest development after amendment in 2019.
11	R. Moonka, S. Mukherjee 2017	IMPACT OF THE RECENT REFORMS ON INDIAN ARBITRATION LAW	BRICS Law Journal (Фонд поддержки академических инициатив) - Vol. 4, Iss: 1, pp 58-71	Doctrinal/ secondary data are used.	In this paper, author discusses the evolution of arbitration law in India, particularly focusing on the changes brought about by the 2015 Amendment Act. Author did not suggested any conclusive method to develop India as a Hub of International Commercial Arbitration.

12	G. Chukwudi Nwakoby, Charles Emenogha Aduaka	OBSTACLES FACING INTERNATIONAL COMMERCIAL ARBITRATION	Journal of Labelled Compounds and Radiop... (Academic Journals) - Vol. 7, Iss: 3, pp 15-20 ISSN identifier of 0362-4803	Doctrinal /Used primary and secondary data	The paper discusses obstacles in international commercial arbitration generally, not specifically in India. It highlights challenges like national courts, costs, arbitrator nationality, and political instability.
13	Harisankar K. Sathyapalan 2016	INDIAN JUDICIARY AND INTERNATIONAL ARBITRATION: A BIT OF A CONTROL?	Arbitration International, Volume 33, Issue 3, September 2017, Pages 503–518, https://doi.org/10.1093/arbint/aiv074 Published: 16 February 2016	Doctrinal /Used primary and secondary data	By amending its arbitration statute at the end of the previous century, India adopted the contemporary arbitration framework, mostly to draw in foreign investment. In contrast to the norms of global arbitration law, the practice demonstrates

					that Indian courts have not been supportive of ICA.
14	Jose M. Rodriguez 2018	EFFECTIVENESS OF INTERNATIONAL COMMERCIAL ARBITRATION AS A DISPUTE SETTLEMENT MECHANISM	Social Science Research Network - pp 87-106	Doctrinal /Used primary and secondary data	In this article, the authors focus on central features that historically made arbitration very effective and highlight the challenges of not losing sight of the cosmopolitan spirit that must guide parties and arbitrators, in light of recent developments.
15	Hiro N. Aragaki 2017	ARBITRATION REFORM IN INDIA: CHALLENGES AND OPPORTUNITIES	Social Science Research Network https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3088355	Doctrinal/ Primary data and secondary Data are used	In this paper, the authors survey the legal and regulatory framework of arbitration in India and attempt to discern underlying

					patterns and dynamics that have so far impeded meaningful reform, and conclude with some recommendations for improving the ICA landscape in India.
16	Umika Sharma 2021	THE INVISIBLE STIGMATISATION OF FEMALE PRACTITIONERS IN INTERNATIONAL ARBITRATION	International Journal of Law in Context (Cambridge University Press (CUP)) - Vol. 17, Iss: 3, pp 371-389	Doctrinal/ Primary data and secondary Data are used	In this article, a study of the gender-based stigmatisation process of elite professionals in an international legal field is presented, which uses commercial arbitration as an example of an international profession and adds to the prevalent understanding of gender inequality by developing a

					framework called invisible stigmatisation.
17	Prachi Verma 2016	ROLE OF SOCIO ECONOMIC FACTORS AFFECTING INTERNATIONAL COMMERCIAL ARBITRATION	Imperial journal of interdisciplinary research Vol. 2, Iss: 12	Doctrinal/ Primary data and secondary Data are used	In this paper, the authors identify and determine the influence of socioeconomic drivers on the international commercial arbitration and arbitrators of India and further delves into determining the efficacy of the current arbitration system in international commercial business of India.
18	Senthil Kumar P., Dr. Anu V. Thomas	EVOLUTION OF ARBITRATION LAW IN INDIA	Published by AIJR Publisher in the "Proceedings of the 6thInternational	Doctrinal/ Primary data and secondary Data are used	The paper discusses the evolution of arbitration law in India, focusing on

			Conference on Modeling and Simulation in Civil Engineering"(ICMSC 2022)December 01-03, 2022		various Arbitration Acts' effectiveness in dispute resolution, rather than specifically on International Commercial Arbitration.
19	G. Chukwudi Nwakoby, Charles Emenogha Aduaka 2015	Obstacles facing international commercial arbitration	Journal of Law and Conflict Resolution Vol.7(3), pp. 15 - 20 , July 2015	Doctrinal/ Primary data and secondary Data are used	The paper discusses obstacles in international commercial arbitration, not specifically focusing on India. It highlights challenges like national courts, costs, arbitrator nationality, and political instability.
20	Jack Wright Nelson 2014	INTERNATIONAL COMMERCIAL ARBITRATION IN ASIA: HONG	Asian International Arbitration Journal ISSN: 1574-3330	Doctrinal/ Primary data and secondary Data are used	The paper compares International Commercial Arbitration in Hong Kong, Australia, and

		KONG, AUSTRALIA AND INDIA COMPARED			India, highlighting India's position in the hierarchy of arbitral seats in Asia.
21	Jose M. Rodriguez 2018	EFFECTIVENESS OF INTERNATIONAL COMMERCIAL ARBITRATION AS A DISPUTE SETTLEMENT MECHANISM (BOOK CHAPTER)	Part of the book series: Ius Comparatum - Global Studies in Comparative Law ((GSCL,volume 30)) https://doi.org/10.1007/978-3-319-93758-8_6 vol 30. Springer, Cham	Doctrinal/ Primary data and secondary Data are used	The paper focuses on the effectiveness of ICA globally, not specifically in India. It emphasizes the importance of maintaining a cosmopolitan spirit in arbitration practices.
22	Andrew Myburgh, Jordi Paniagua	DOES INTERNATIONAL COMMERCIAL ARBITRATION PROMOTE FOREIGN DIRECT INVESTMENT	The Journal of Law and Economics (University of Chicago PressChicago, IL) - Vol. 59, Iss: 3, pp 597-627	Doctrinal/ Primary data and secondary Data are used	This paper explored the role that international commercial arbitration plays in facilitating foreign direct investment (FDI) and found that access to

					arbitration leads to an increase in FDI flows, which largely occurs through a change in the volume of investment, with a much smaller effect on the number of investment projects.
23	IGI Global Publisher	ISSUES IN INTERNATIONAL COMMERCIAL ARBITRATION	Book Name- Policies, Practices, and Protocols for International Commercial Arbitration ISBN13: 9781668440407	Doctrinal and secondary Data are used	The chapter discusses ICA broadly, including key terms, types, laws, and alternative dispute resolution, but does not specifically focus on India's practices in commercial arbitration.

24	Dilfuza Imamova, Farangiz Razakova 2023	LEGAL ISSUES OF THE APPLICATION OF PRINCIPLE OF CONFIDENTIALITY IN INTERNATIONAL COMMERCIAL ARBITRATION	- Yurisprudensiya (Tashkent State University of Law) - Vol. 3, Iss: 5, pp 42-53	Doctrinal/ Primary data and secondary Data are used	In this article, the authors describes the concept of the principle of confidentiality in international commercial arbitration, its history, its legal description, comparative legal analysis, and issues related to the practical aspects of the application of these cases.
25	Leon E. Trakman 2014	CONFIDENTIALITY IN INTERNATIONAL COMMERCIAL ARBITRATION	Arbitration International, Volume 18, Issue 1, 1 March 2002, Pages 1–18, https://doi.org/10.1023/A:1014277907158 Published: 30 September 2014	Doctrinal/ Primary data and secondary Data are used	In this paper, Author has discussed the importance of confidentiality in the process of ICA to make it success ultimately in the interest of the parties. But this article do not explain whether confidentiality is

					maintained and if yes them upto what level in ICA proceedings in India.
26	Yunbo Zhang 2023	The Study on the Effectiveness of Arbitration Clauses in International Commercial Arbitration – From the Perspective of Contract Non-Formation	Athens journal of law ISSN: 2407-9685 Vol. 9, Iss: 3, pp 493-508	Doctrinal/ Primary data and secondary Data are used	In this article , the authors explore the issue of the validity of arbitration clauses in international commercial arbitration when the main contract is not established, and address the problem of determining the validity in transnational commercial disputes.
27	Luca G. Radicati di Brozolo 2023	International Commercial Arbitration and Private International Law	Cambridge Compendium of International Commercial and Investment Arbitration (Book)	Doctrinal/ Primary data and secondary Data are used	Private international law is crucial for international commercial arbitration, addressing jurisdiction,

			Published online by Cambridge University Press: 18 February 2023		conflict of laws, and decision enforcement. It ensures uniform and predictable solutions, essential for effective international dispute resolution.
28	Mohammad Naqib Ishan Jan 2023	THE ROLE OF ARBITRATION IN THE RESOLUTION OF INTERNATIONAL COMMERCIAL DISPUTES	IIUM Law Journal (International Islamic University Malaysia) - Vol. 22, Iss: 2	Doctrinal/ Primary data and secondary Data are used	The research paper explores the significant role of arbitration in resolving international commercial disputes, emphasizing its advantages like party autonomy, flexibility, confidentiality, and transnational enforcement of awards.

29	Saber Habibi Savadkouhi, Sadegh Habibi Savadkouhi d, Akbar Bashiri 2014	THE FOUR LEGAL THEORIES OF INTERNATIONAL COMMERCIAL ARBITRATION	Asian Journal of Research in Social Sciences and Humanities Vol. 4, Iss: 5, pp 421-430	Doctrinal/ Primary data and secondary Data are used	Understanding the conceptual structure of arbitration theories, determining whether or not all theories are successful and productive, and clearly differentiating between all kinds of theories are the primary goals of the research presented in this article.
30	Albert Jan van den Berg 2013	INTERNATIONAL ARBITRATION: THE COMING OF A NEW AGE	Book	This volume collects the articles emanating from the twenty-first Congress of the International Council for Commercial Arbitration (ICCA) held in Singapore in 2012	The research paper discusses the latest trends and challenges in international commercial arbitration, covering topics like arbitration proceedings, legal orders, ethical behavior, investment protection, and

					technological advancements in arbitration.
31-	Dr. Rajesh Bahuguna and Vijay Srivastava 2016	INDIA AS A HUB FOR INTERNATIONAL COMMERCIAL ARBITRATION: AN OVERVIEW IN REFERENCE TO THE AMENDMENTS IN INDIAN ARBITRATION LAW	Paper available on Research gate Link-https://www.researchgate.net/publication/313444911_India_as_a_Hub_for_International_Commercial_Arbitration_An_Overview_In_Reference_to_the_Amendments_in_Indian_Arbitration_Law/comments	Doctrinal/ Primary data and secondary Data are used	This paper focused on the amendments made in Indian Arbitration Law to make India a hub of International Commercial Arbitration but It does not include discussion about the factors which are acting as impediments to make India a global hub for ICA.
32-	Dr. Rajesh Bahuguna and Vijay Srivastava 2017	CHALLENGES BEFORE INTERNATIONAL COMMERCIAL ARBITRATION IN INDIA	IOSR Journal of Humanities and Social Science Volume 22, Issue 4, Ver. II (April. 2017)	Doctrinal/ Primary data and secondary Data are used	In this paper authors have proposed few amendments to be brought in existing law but this paper has abstained itself

		AND NEW HOPE FOR ITS IMPROVEMENTS UNDER THE ARBITRATION AND CONCILIATION (AMENDMENT) ACT, 2015: AN ANALYSIS	PP 32-45 e-ISSN: 2279-0837, p-ISSN: 2279-0845. www.iosrjournals.org		from glorifying the most viable existing system of Singapore, malasia and Hongkong in the area of Institutional arbitration
33-	Raghav Sharma 2009	BHATIA INTERNATIONAL V. BULK TRADING S.A. : AMBUSHING INTERNATIONAL COMMERCIAL ARBITRATION OUTSIDE INDIA?	Journal of International Arbitration 26(Issue 3)	Doctrinal/ Primary data and secondary Data are used	This paper does include the development took place in the area of International Commercial Arbitration after the amendment of 2015 and 2019

34-	Vikrant Yadav 2021	CHOICE OF LAW IN INTERNATIONAL COMMERCIAL ARBITRATION	Notion Press ISBN: 9781685861551 (Book)	Doctrinal, Primary and secondary data used the book published out of authors Ph.D. work	In this book author has explained the issue relating to choice of law in International Commercial Arbitration but he has not explained how to attract parties to choose India as a seat of ICA
35-	Anirudh Hariani 2020	INDIAN ARBITRATION AND THE SHIFTING SANDS OF PUBLIC POLICY	Asian International Arbitration Journal 16(Issue 2):159-192	Doctrinal/ Primary data and secondary Data are used	This article seeks to trace the tumultuous development of the public policy doctrine in India, from its beginnings as a common law concept, to arrive at the current understanding of the doctrine and its parameters, in the context of Indian arbitration law. This article does not touch other

					aspect of ICA in India
36-	Manu Thadikkaran 2012	JUDICIAL INTERVENTION IN INTERNATIONAL COMMERCIAL ARBITRATION: IMPLICATIONS AND RECENT DEVELOPMENTS FROM THE INDIAN PERSPECTIVE	Journal of International Arbitration 29(Issue 6):681-690	Doctrinal/ Primary data and secondary Data are used	In this paper, the author highlighted the issue of Intervention made by Indian Judiciary in International Arbitration with reference to Bhatiya International case. But the scenario has been changed in last decades that is one of the biggest gap in this paper.
37-	Sai Ramani Garimella 2014	TERRITORIALITY PRINCIPLE IN INTERNATIONAL COMMERCIAL	Asian Law Institute Conference on Law in Asia - Balancing Tradition and Modernization At: Kuala	Doctrinal/ Primary data and secondary Data are used	This paper attempts to examine the presence and interpretation of the role of the seat in international

		ARBITRATION – THE EMERGING ASIAN PRACTICE	Lumpur, Malaysia		arbitrations in the jurisdictions of India, Singapore and Malaysia with regard to the availability of interim measures in foreign-seated arbitrations. But the scenario has been changed in last decades that is one of the biggest gap in this paper.
38-	Ahtshamuddin Ansari 2019	FRAMEWORK FOR SETTLEMENT OF COMMERCIAL CONFLICTS: A COMPARATIVE STUDY OF INSTITUTIONAL COMMERCIAL	Journal Global Values, Vol. X, No. I 2019, ISSN: (P) 0976-9447, (e) 2454-8391, Impact Factor 6.861 (SJIF)	Doctrinal/ Primary data and secondary Data are used	Commercial arbitration has become significant institution of dispute resolution for international commercial agreements. This paper explore a very limited scope of International Commercial

		ARBITRATION			arbitration in India
39-	Adnan AlomarAbdessalam Ali Mohamad AlfadelAmmar Mahmoud Ayoub Al-rawashed 2024	THE IMPACT OF INTERNATIONAL COMMERCIAL CUSTOMS (LEX MERCATORIA) ON INTERNATIONAL COMMERCIAL ARBITRATION	Evolutionary Studies in Imaginative Culture	Doctrinal/ Primary data and secondary Data are used	This paper recommends the Jordanian legislator to explicitly adopt the application of these commercial customs in the Jordanian Arbitration Law texts, following the example of national and international comparative legislation. The study has been made in context of Jordian Law
40-	Margaret L. Moses 2024	THE PRINCIPLES AND PRACTICE OF INTERNATIONAL	10.1017/9781009444750 ISBN: 9781009444767	Doctrinal/ Primary data and secondary Data are used	This book not only deals with the broad application of international treaties, guidelines, laws

	COMMERCIAL ARBITRATION	and rules affecting international commercial arbitration, but also includes information about the most recent developments in the field. This book does not focus on the challenges faced by ICA

4. Research Gap

Based on the study of literature review and research problem this study aims to fulfil the following research gap.

- In India the Institutional Arbitration has not been able to flourish the way it has developed in other South East Asian Countries like Singapore and Hongkong.
- The Judicial Intervention in the arbitral process has demotivated parties to choose India as seat of Arbitration.
- In India the Enforcement of Arbitral Awards get stuck in the time taking litigation process that impact India's attractiveness as an effective centre of ICA.
- Techno-Legal mechanism in the International Arbitration can be developed to facilitate the smooth operation

Undisputedly Several studies have delved into the significance and development of International Commercial Arbitration, but none have looked into the journey of India to develop as a Hub of International Commercial Arbitration and the contribution of Amendments took place in 2015 and 2019 in Arbitration and Conciliation Act, 1996 to promote ICA in India. As a result, the current study attempts to close this gap by examining the current legal framework and the feasibility of furthering transformation in this field.

5. Research Objectives:

The present study has the following objectives:

I. To describe and Evaluate whether India's aspire to strengthen institutional arbitration would derive the favourable results

II. To examine the existing legal regime to govern International Commercial Arbitration in Bharat and to study the best practices of Arbitral Institutions in Singapore and Hongkong.

III. To investigate the effects of the Amendments introduced in 2019 in the Arbitration and Conciliation Act, with intention of enhancing and promoting institutional arbitration in India and minimizing judicial intrusion in the process of arbitration.

IV. To recognise the impediments and challenges faced by the different stake holders in the process of Arbitration in India

V. To propose recommendations for policymakers, regulatory bodies, Corporates, and arbitral institutions to strengthen the mechanism of International Commercial Arbitration in this country and to fostering the enforcement of awards

6. Research Hypothesis:

I. The promotion of institutional arbitration in India by upgrading Indian arbitral institutions will make this country an effective centre for International Commercial Arbitration at a global level.

II. Despite significant legal reforms, India's journey to emerge as an international hub of commercial arbitration is hindered by persistent challenges in perception, technology and infrastructure.

III. The efficiency of enforcing arbitral awards in India is the most significant factor influencing foreign party's decisions to choose India as an seat of arbitration.

7.Research Methodology:

For a Ph.D. study on "India as an Effective Centre of International Commercial Arbitration- An analysis with special reference to Singapore and Hongkong", a comprehensive research methodology would involve a mixed-methods approach, combining both Doctrinal and empirical methods.

The Doctrinal research will undertake the extensive analytical study of legislations of India and other countries in South east Asia like Singapore and Hong Kong. Researcher will examine government policies and initiatives aimed at promoting India as an arbitration hub. Moreover, regulations and curial laws of Leading Foreign Arbitral Institutions will be studied.

The empirical part of research will include the following methods and tools for data collection:

1. In-depth unstructured interviewing method-(by using interview guide)
2. In-depth structured interviewing method- (by using an interview guide)

Population-

International Commercial Arbitration is a process of commercial dispute resolution where foreign parties or foreign element is involved. Everyone having stake or interest in the whole process comes within the purview of population to be studied. Specifically, Arbitration Counsel, Advocates, Arbitrators, Beneficiaries and Academicians are included in the population.

Sample Size-

In order to conduct the empirical study on this topic, the data is to be collected from 200 Advocates who are engaged in the International Arbitration Practice, 100 persons from Industries who are beneficiaries of dispute settlement process by way of Arbitration, 100 Academicians who are engaged in the research and study relating to International arbitration law and 50 arbitrators who have been part of Arbitration.

Apart from this the proposed research will include the following Quantitative and Qualitative methods also in the prescribed manner-

a) Quantitative Methods:

- Survey of arbitration practitioners, corporate lawyers, and business executives
- Statistical analysis of arbitration cases in India (e.g., number of cases, duration, enforcement rates)
- Statistical analysis of annual reports of Arbitral Institutions in Foreign Countries

b) Qualitative Methods:

- In-depth interviews with key stakeholders (arbitrators, judges, policymakers, institutional heads)
- Case studies of significant arbitration cases or institutions in India
- Focus group discussions with legal practitioners and business representatives

Research Tools-

Different kind of software like SPCC, Microsoft Word, Excel, Search engines may be used in the research.

8. Expected Outcome of the Research:

The expected outcome of this research work is to provide a comprehensive analysis of the India's attempts so far to become an effective centre for International Commercial arbitration. With the use of a comprehensive analysis of the existing literatures, case studies and empirical data, the purpose of this research is to provide insightful information and insights regarding the efficiency of institutional arbitration in Bharat. Additionally, the research will put forward some recommendations and policy implications, to be relevant and useful for Framers of the Policies, Arbitrators and other stakeholders to upgrade the mechanism of International Commercial Arbitration in Bharat. This study endeavour will contribute to the formulation of policies that are more robust and efficient in relation to international commercial arbitration by addressing the obstacles and impediments that are encountered during the implementation process. This research will contribute to a deeper understanding of the hindrances and impediments to make India a robust centre for I.C.A.

Policy Recommendation: This thesis will provide important insights and recommendations to the policyframers, government officials, and other stakeholders about the establishment of institutional arbitration and their successful functioning in India, as well as the enforcement of awards.

Development of Pro Arbitration Culture: It is anticipated that the Research would emphasize the significance of actions that can be taken to encourage the use of ADR methods, such as mandating that arbitral institutions provide mediation services.

Economic and Commercial Benefits: By analysing case studies and empirical data, the research is likely to demonstrate the economic and commercial advantages of strengthening the I.C.A. mechanism in this country.

Future Research Directions: This thesis will outline areas for future research and investigation, encouraging continued exploration of the effectiveness of the International Commercial Arbitration in India.

Overall this research work seeks to provide a comprehensive analysis of India's Journey to become hub of International Commercial Arbitration and recommendations to make India a good competitor against regional players in south east Asia.

9.Proposed Chapters:

Chapter I: Introduction:

The first chapter of the thesis will contain overview of whole idea of International Commercial Arbitration and its journey in India along with the roadmap to bring a concrete research on this topic. This chapter will also figure out the hypothesis and research gap to be addressed further in subsequent chapters.

Chapter II: Evolution of the International Commercial arbitration at the global level and in India-

The second chapter will focus on the evolution of the culture to adjudicate the commercial disputes involving foreign party through arbitration in India. Pertinent to mention here that in India the stretching traditional litigation process seems a curse for business disputes. Early 1990s economic reforms in India opened the doors for foreign investors and mobilised the domestic players to boost the economy resulted in uprising the commercial disputes also involving foreign parties. That has contributed in the development of adjudication of commercial disputes through Arbitration.

Chapter III: Scrutiny of Indian legal regime and Its competency as per Global standard

Certainly, a scrutiny of the Indian legal regime and its competency as per global standards would be an essential component of a comprehensive Ph.D. study on India's journey to emerge as an international hub of commercial arbitration. Here's an outline of how this aspect could be approached:

1. Analysis of the Indian Arbitration and Conciliation Act and amendments
2. Comparison with International Arbitration Laws and Conventions
3. Comparative analysis of the Indian Arbitration and Conciliation Act with the arbitration laws of established hubs like Singapore and Hong Kong
4. Evaluation of India's adherence to international conventions, such as the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards

Chapter IV: Enforcement of Awards and Judicial Attitude

This chapter aims to elaborate and analyse the role of Indian Judiciary in positive and other sense also to boost the International Commercial Arbitration in India. It shall be studied in the below given dimensions.

1. Role of the Indian judiciary in enforcement of awards
2. Analysis of key judgments and their impact on the arbitration landscape
3. Efficiency and timeliness of the enforcement of domestic and foreign arbitral awards
4. Challenges and barriers in the enforcement process
5. Comparative analysis with enforcement regimes in other jurisdictions

Chapter V: Effectiveness of Indian Arbitral Institutions- A Comparative Study with reference to Singapore and Hong Kong

Under this proposed chapter the evolution, role, capacity and competitiveness of Arbitration Institution in India shall be analysed with comparison to Singapore and Hongkong. Arbitral Institutions have played a significant role in the Singapore and Hong Kong for making them a attractive destinations for International Commercial Arbitration.

1. Evaluation of major Indian arbitration institutions
2. Organizational structure, resources, and management practices
3. Comparative assessment of institutional capabilities and global positioning

Chapter VI: Empirical Study of India's Ecosystem of International Commercial Arbitration

1. Government policies and initiatives to promote India as an arbitration hub
2. Regulatory environment and its impact on the arbitration landscape
3. Cultural and attitudinal shifts within the Indian legal community
4. Survey, Interviews and Discussions

Chapter VII: Conclusion and Suggestions

1. Summary of key findings and contributions of the study
2. Limitations and directions for future research

10.Month Wise Plan of the Work:

S.No.	Proposed Work	Tentative Date
1.	Thesis Proposal Approved	December 2024
2.	Extended Literature Review	December, 2024
3.	Identify Stakeholders and collect Empirical Data	February, 2025
4.	Chapter 1 & 2	March, 2025
5.	Chapter 3 & 4	May, 2025
6.	Chapter 5 to 7	July, 2025
7.	Pre Ph.D. Seminar	December, 2025
8.	Publications	December,2025
9.	Thesis Submission	March, 2026

11.Bibliography

- Dewan, N. (2021). "Law and Practice of Arbitration in India." 5th Edition. LexisNexis.
- O.P. Malhotra's The Law And Practice Of Arbitration And Conciliation, 3rd Edition Thomson Reuters.
- International Commercial Arbitration in Asia, 3rd Edition by Shahla F. Ali & Tom Ginsburg
- Dr. N.V.Paranjape- Law Relating to Arbitration & Conciliation in India
- Law of Arbitration by P.K. Basu Majumdar
- Law of Arbitration & Conciliation and Alternative Dispute Resolution System by Avtar Singh
- International Commercial Arbitration: An Introduction by Rohith M. Subramoniam and Navya Jain

Digital Sources:

- https://icaindia.co.in/commercial-arbitration
- https://siac.org.sg/practice-note-for-uncitral-cases/uncitral-rules-2010
- https://iccwbo.org/dispute-resolution/dispute-resolution-services/icc-international-court-of-arbitration/
- https://pca-cpa.org/en/services/arbitration-services/pca-arbitration-rules-2012/
- https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research_Papers/International_Commercial_Arbitration.pdf
- https://uncitral.un.org/en/texts/arbitration/modellaw/commercial_arbitration
- https://cdn.arbitration-icca.org/s3fs-public/document/media_document/Handbook-TOC-s.120.pdf
- https://legalaffairs.gov.in/new-delhi-international-arbitration-centre

Articles

- Role of Socio-Economic factors affecting international commercial arbitration- Imperial Journal of Interdisciplinary Research, Vol. 2, Iss: 12 by Prachi Verma
- Confidentiality in International Commercial Arbitration: Arbitration International, Volume 18, Issue 1 - Leon E. Trakman
- International Commercial Arbitration and Transnational Public Policy: Journal of the Indian Law Institute Vol. 49, No. 1, by M.S. Rawat
- International Commercial Arbitration in a Changing World: Arab Law Quarterly, Vol. 9, No. 2 (1994), pp. 144-157 (14 pages), Husain M. Al-Baharna
- International Commercial Arbitration: International Legal Developments in Review: Volume 33 Number 2 1998 by Marc J. Goldstein
- Pitfalls in International Commercial Arbitration: The Business Lawyer, Vol. 35, No. 3 (April 1980), pp. 1035-1051 (17 pages) Published By: American Bar Association Francis j. Higgins, William G. Brown and Patrick j. Roach
- India as an Arbitration Destination: The Road Ahead- National Law School of India Review, Vol. 21, No. 2 (2009), pp. 77-103 (27 pages), Stephen York

Instrument:

- UNCITRAL Model Law on International Commercial Arbitration (1985), with amendments as adopted in 2006

- The Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("New York Convention")
- Geneva Convention 1927
- Arbitration and Conciliation Act, 1996

DrillBit

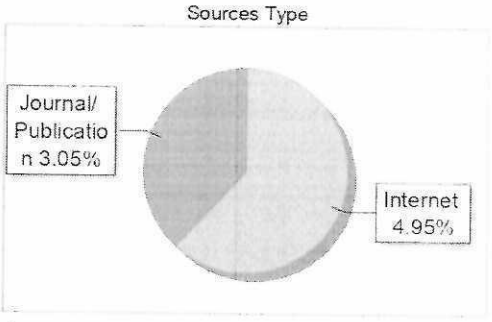
The Report is Generated by DrillBit Plagiarism Detection Software

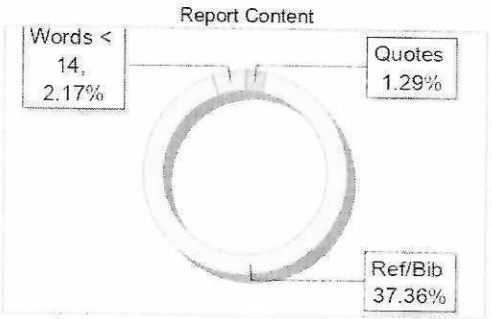
Submission Information

Author Name	Parth Upadhyay
Title	INDIA AS AN EFFECTIVE CENTRE OF INTERNATIONAL
Paper/Submission ID	2983579
Submitted by	research@iudehradun.edu.in
Submission Date	2025-01-11 19:56:08
Total Pages, Total Words	42, 7267
Document type	Synopsis

Result Information

Similarity 8 %





Exclude Information

Quotes	Excluded
References Bibliography	Excluded
Source Excluded < 14 Words	Not Excluded
Excluded Source	0 %
Excluded Phrases	Not Excluded

Database Selection

Language	English
Student Papers	Yes
Journals & publishers	Yes
Internet or Web	Yes
Institution Repository	Yes